statute has abolished the necessity of the word "heirs" to convey a fee simple, deeds similar to that in the principal case have been passed upon and similarly decided. *Montgomery* v. *Sturdevant,* 41 Cal. 290; *Williams* v. *Hedrick,* 96 Fed. 657; *Humphrey* v. *Foster,* 13 Grat. (Va.) 653. See 2 ILLINOIS L. REV. 192, for extended discussion of the subject of construction of habendum in deeds.

DEEDS — PAROL RESERVATION OF GROWING CROPS BY VENDOR OF LAND. — Where a vendor of land executed and delivered a warranty deed to plaintiff, and as part of the consideration of the deed, there was a parol reservation to the vendor of a growing crop of wheat, *held,* that such parol reservation may be shown when the deed is silent as to the passing to the grantee of the growing wheat. *Bjornson* v. *Rostad,* (S. D. 1912), 137 N. W. 567.

The court in this case showed that in the absence of any reservation, parol or otherwise, a growing crop of grain on the land at the time of the execution of the deed thereof passes to the purchaser under the deed. Where there is a parol reservation of crops simply, without any agreement that such is part of the consideration of the deed, the following cases have held that such parol reservation may not be established, on the ground that to allow it would be a violation of the parol evidence rule: *Gibbons* v. *Dillingham,* 10 Ark. 9, 50 Am. Dec. 233; *Gam* v. *Cordrey,* 4 Penn. (Del.) 143, 53 Atl. 334; *Damery* v. *Ferguson,* 48 Ill. App. 225; *Chapman* v. *Veach,* 32 Kan. 167, 4 Pac. 100; *Brown* v. *Thurston,* 56 Me. 126, 96 Am. Dec. 438; *McIlvaine* v. *Harris,* 20 Mo. 457. But the contrary rule—which goes farther than the rule in the principal case—has been held in other states: *Cooper* v. *Kennedy,* 86 Neb. 122, 124 N. W. 1131; *Walton* v. *Jordan,* 65 N. C. 170; *Baker* v. *Jordan,* 3 Ohio St. 438; *Backentos* v. *Stahler,* 33 Pa. St. 251, 75 Am. Dec. 592; *Kerr* v. *Hill,* 27 W. Va. 576, on the ground that growing crops can be either realty or personalty according to the intention of the parties; that the deed on its face purports to convey realty, and that it is quite consistent with the deed to show the understanding of the parties. Where, as in the principal case, the facts showed that the parol reservation was part of the consideration, cases holding directly contrary thereto are: *Adams* v. *Watkins,* 103 Mich. 431; *Kammrath* v. *Kidd,* 89 Minn. 380, 95 N. W. 213, 99 Am. St. Rep. 603, on the ground that to allow such parol proof would vary the terms of the deed. Cases holding directly in accord with the rule in the principal case are: *Kluse* v. *Sparks,* 10 Ind. App. 445, 37 N. E. 1047; *Grabow* v. *McCracken,* 23 Okl. 612, 102 Pac. 84, 23 L. R. A. (N. S.) 1218; *Holt* v. *Holt,* 57 Mo. App. 275.

EVIDENCE—ADMISSIBILITY OF STATEMENTS OF A PRIOR HOLDER OF NEGOTIABLE PAPER AGAINST TRANSFEREE.—Plaintiff sued on two promissory notes, alleged to have been made by the defendant, who denied execution of the notes and interposed the defense of fraud. It appeared that the defendant entered into negotiations with L, in the course of which a contract was executed which referred to one of the notes. Defendant asserted that the reference to the note was fraudulently inserted after the execution and delivery of the contract, and that on the date of final settlement, he inquired of L

the cause of such reference, at which time L, exprssed inability to explain. Plaintiff maintained that the note in question had come to its possession in due course before the above statement was made by L, and objected to the trial court's admission of evidence as to that statement. *Held,* that the statements of the prior holder of the note after transfer were admissible. *First National Bank of West Minneapolis* v. *Harvey* (S. D., 1912), 137 N. W. 365.

While recognizing the general principle that statements made by a former owner of negotiable paper are inadmissible against a transferee thereof, the Court considered that sufficient evidence had been introduced to warrant the jury in finding that the note had been fraudulently obtained and covertly transferred to the plaintiff for the purpose of cutting off defenses. Evidence of fraud on the part of the transferee is sufficient to identify his interest in the paper with that of the prior holder and to enable admissions and declarations of the latter, though made after transfer, to be adduced against the former. WIGMORE, EVIDENCE, § 1084. In *Barough* v. *White,* 4 B. & C. 325, it was held that, before any declarations of a prior holder of a negotiable instrument could be admitted, preliminary evidence must be offered connecting the transferee with the prior holder. Any element destroying the bona fide character of the transferee would seem in most jurisdictions to be sufficient. *Bond* v. *Fitzpatrick,* 4 Gray 89; *Frick* v. *Reynolds,* 6 Okl. 638.

EVIDENCE—RIGHT TO INTRODUCE SECONDARY EVIDENCE OF CONTENTS OF A DOCUMENT WHEN THE ORIGINAL IS BEYOND JURISDICTION OF THE COURT.—In a suit upon a fire insurance policy, the court admitted secondary evidence of the contents of concurrent policies of fire insurance, the original policies being outside the jurisdiction of the court. *Held,* In ascertaining the amount of concurrent insurance both parties were interested, and under such circumstances, the secondary evidence was admissible. *Peters & Roberts Furniture Company* v. *Queen City Fire Insurance Company of Sioux Falls,* S. D. (Ore. 1912), 126 Pac. 1005.

The Courts are not harmonious in their views as to when secondary evidence of the contents of a document may be introduced, the original being in the hands of a third party and beyond the jurisdiction of the Court. No fixed rule defining the diligence required in such cases, if any, to excuse nonproduction of the original has been settled upon by the Courts. WIGMORE, EVIDENCE, § 1213. The weight of authority seems to sustain the view that no diligence need be exercised to produce the original upon a showing that the document is beyond the jurisdiction of the Court. In *Burton* v. *Driggs,* 20 Wall, 125, Justice SWAYNE said, "It is well settled that if books or papers necessary as evidence in a Court in one state be in possession of a person living in another state, secondary evidence, without further showing, may be given to prove the contents of such papers, and notice to produce them is unnecessary." See also *Hagaman* v. *Gillis,* 9 S. D. 61; relying on *Burton* v. *Driggs*; *Woods* v. *Burke,* 67 Mich. 674; *Knickerbocker* v. *Wilcox,* 83 Mich. 200; *Shepard* v. *Giddings,* 22 Conn. 282. Some Courts insist upon the exercise of some diligence. *Londoner* v. *Stewart,* 3 Colo. 47; *Waite* v. *High,* 96 Iowa 742. Various degrees of diligence have been held sufficient, though